

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

Ayer  
24409

**FILE:** B-210818

**DATE:** March 8, 1983

**MATTER OF:** Edwards Enterprises, Inc.

**DIGEST:**

1. Small Business Administration has exclusive authority to determine the size status of small business for Federal procurement purposes, and GAO will dismiss any protest on this ground.
2. Below-cost bid provides no basis for challenging the award of a Government contract to a responsible prospective contractor.
3. Protest against specifications in solicitation, which were apparent prior to bid opening, is untimely when filed after bid opening.

Edwards Enterprises, Inc. (Edwards), protests the award of a total small business set-aside contract for Elmendorf Air Force Base, Alaska, under invitation for bids (IFB) No. F66501-83-B-0004. Edwards contends that one bidder, DGS of Jackson, Mississippi, is not a small business because it is affiliated with a large business and that five of the bidders have bid too low to be able to perform the services required by the IFB. Edwards also contends that the Air Force improperly changed the specifications (one dining hall's operation was increased from 5 days per week to 7 days per week) and that the specifications contain an inconsistency (one clause requiring an attendant in building 41-700, inflight kitchen, while another clause does not).

None of these contentions are for our review. Under 15 U.S.C § 637(b)(6) (1976), the Small Business Administration has exclusive authority to determine the size status of small businesses for Federal procurement purposes. Dragon Services, Inc., B-208081, July 27, 1982, 82-2 CPD 86. Moreover, a below-cost bid is not a ground for challenging the award of a Government contract to a responsible prospective contractor. Dragon Services, Inc., supra. Further, Edwards' protest indicates that bids were opened prior to its protest. Our Bid Protest Procedures require that a

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protest based upon alleged improprieties in an IFB, which improprieties are apparent prior to bid opening, must be filed prior to bid opening. 4 C.F.R. § 21 (1982); Calculator Division of Canon U.S.A., Inc., B-207551.3, July 1, 1982, 82-2 CPD 7.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel